

RIGHT BY BIRTH: ON DAUGHTERS AND HINDU SUCCESSION ACT

SC decision on coparcenary rights of women is in line with the aim of ending discrimination

The latest decision of the Supreme Court on the right of Hindu daughters to ancestral property corrects an obvious anomaly in the interpretation of a crucial 2005 amendment to the Hindu Succession Act, 1956. The verdict settles the question whether the coparcenary right of daughters comes into effect only if the father through whom they claim that right was alive on the day the amendment came into force. The apex court has now categorically ruled that the daughters' right flows from their birth and not by any other factor such as the existence of their fathers. In other words, it has rejected the common misinterpretation that only daughters of coparceners who were alive on that day could get an equal share in property. The court has rightly recognised that the amendment conferred equal status as a coparcener on daughters in Hindu families governed by Mitakshara law, and this right accrued by birth. The change came into effect from September 9, 2005, but with a provision that partitions or testamentary disposition that had taken place prior to December 20, 2004 — the date on which the amendment Bill was introduced in the Rajya Sabha — will remain valid and unaffected by the change. This led to the interpretation that the daughters' coparcenary rights, being prospective, would not come into effect unless both the coparcener father and his daughter were alive on September 9, 2005. This position was crystallised in a 2015 judgment of the Supreme Court in *Prakash and Others vs. Phulavati*. This judgment now stands overruled.

The court's reasoning is unexceptionable. First, it locates the origin of the coparcenary right in one's birth. Second, it finds that there is no necessity for a predecessor coparcener to be alive for one to acquire that status, as what is relevant is birth within the degrees of succession to which it extends. In that sense, the legislation, even though it comes into effect on a prescribed date, is retroactive in its application as it is linked to birth, an antecedent event. It also underscores that the legislation makes it clear that the daughter's rights are the same "as that of a son," and "as if she had been a son at the time of birth". The coparcenary status given to daughters has been a subject of reform in many States, particularly in south India, long before the UPA regime brought in the amendment for the whole country. Kerala had introduced legislation in 1975, Andhra Pradesh in 1986, Tamil Nadu in 1989 and Maharashtra and Karnataka in 1994. The legislative aim was that a flagrant discrimination between sons and daughters in entitlement to an equal share in coparcenary property, that is property inherited from one's father, grandfather or great-grandfather, should be done away with. It is indeed welcome that the apex court has sought to give full effect to this intent by setting at rest doubts arising from varying interpretations.

Meanings of Difficult Words:

- ❖ **succession** (noun) – succession is the process by which the all the earthly property of a person (dead/alive) are dealt with. Succession results into inheritance. Inheritance is the transfer of rights of property from the person (dead/alive) to a successor.
- ❖ **Hindu succession act** (noun) – The Supreme Court of India reiterated (said again) that the Hindu Succession Act – that was amended in 2005 gives women equal inheritance rights. The apex court has now categorically (clearly) ruled that a woman can claim equal share in family property as a daughter in the same way "as that of a son,". This right flows (comes) from her birth and not by any other factor such as the existence of her father.
- ❖ **coparcenary** (noun) – joint heirship.
- ❖ **in line with** (phrase) – in alignment with, in accordance with.
- ❖ **discrimination** (noun) – prejudice, intolerance, inequity, unfairness (against an individual or group of individuals by society and its institutions (basically in the procedures, policies or objectives) as a whole.
- ❖ **ancestral** (adjective) – inherited, hereditary, familial.
- ❖ **obvious** (adjective) – clear, evident, palpable, visible, distinct.

- ❖ **anomaly** (noun) – something different, abnormal, unusual; oddity, peculiarity, deviation, aberration, exception.
- ❖ **interpretation** (noun) – understanding, reading, meaning, explanation.
- ❖ **come into effect** (phrase) – (of a law, rule, policy, etc) to become valid; came into force; start to apply.
- ❖ **categorically** (adverb) – absolutely, unquestionably, certainly, clearly, unequivocally, unambiguously.
- ❖ **flow from** (phrase) – come from, be rooted in, originate from, emanate from.
- ❖ **coparcener** (noun) – successor, heir, heiress, inheritor, descendant, beneficiary.
- ❖ **confer (upon)** (verb) – bestow, present, grant, give (a right to someone).
- ❖ **accrue** (verb) – result, arise, flow, emanate.
- ❖ **provision** (noun) – term, clause, requirement/condition.
- ❖ **testamentary** (adjective) – relating to a will or testament.
- ❖ **disposition** (noun) – distribution, disposal, allocation, transfer.
- ❖ **unaffected** (adjective) – unchanged, unaltered, uninfluenced.
- ❖ **prospective** (adjective) – potential, possible, probable, eventual, destined.
- ❖ **crystallise** (verb) – become clear, become definite, take shape, solidify.
- ❖ **stand** (verb) – remain in force, remain valid, remain effective.
- ❖ **overrule** (verb) – cancel, reverse, rescind, repeal.
- ❖ **reasoning** (noun) – (logical & sensible) thinking, thought, contemplation, pondering.
- ❖ **unexceptionable** (adjective) – acceptable, reasonable, satisfactory, fair, good enough.
- ❖ **necessity** (noun) – (essential) requirement, prerequisite, indispensable thing.
- ❖ **predecessor** (noun) – previous holder of the property; forerunner, precursor, antecedent.
- ❖ **acquire** (verb) – buy, obtain, take possession of, obtain.
- ❖ **legislation** (noun) – body of laws, rules, regulations.
- ❖ **prescribed** (adjective) – advised, directed, ordered.
- ❖ **retroactive** (adjective) – backward-looking, backdated, ex post facto.
- ❖ **antecedent** (adjective) – previous, earlier, prior, foregoing.
- ❖ **underscore** (verb) – underline, emphasize, highlight.
- ❖ **make clear** (phrase) – explain, clarify, elucidate.
- ❖ **bring in** (phrasal verb) – cause, bring about, create, produce.
- ❖ **legislative** (adjective) – governmental, parliamentary, law-making, policy-making.
- ❖ **flagrant** (adjective) – obvious, blatant, evident, glaring.
- ❖ **entitlement** (noun) – right, prerogative, claim, title.
- ❖ **inherited** (adjective) – derived genetically from one's parents or ancestors.
- ❖ **do away with** (phrasal verb) – cancel, discard, get rid of, quash.
- ❖ **indeed** (adverb) – in fact, actually.
- ❖ **seek** (verb) – try, attempt, work towards.
- ❖ **intent** (noun) – aim, purpose, objective.
- ❖ **set (something) at rest** (phrase) – resolve or conclude something.

HISTORIC RATIFICATION:

ON UNIVERSAL RATIFICATION OF A LABOUR STANDARD

The universal ratification of a labour standard is cause for celebration and reflection

The welcome decision by the Kingdom of Tonga to outlaw the worst forms of child labour is the first time in the International Labour Organization (ILO)'s 101-year history that a labour standard has been universally ratified. Convention 182, which was adopted in the 1999 annual international labour conference, prohibits the sexual exploitation of children, trafficking, deployment in armed conflict and other conditions that compromise their overall well-being. The Convention complements the ILO's efforts under the 1973 Minimum Age Convention to prevent the employment

of children below a lower age threshold. Under the influence of both these ILO standards, millions of young boys and girls have been rescued from hazardous conditions of work. Concomitantly, these have resulted in significant increases in enrolments in primary education. The landmark ratification, however, does not detract from the enormity of the challenge that remains. An estimated 152 million are trapped in child labour and 72 million of them are engaged in hazardous work. If anything, current efforts would have to be stepped up significantly to achieve the ambitious goal of total abolition of the scourge of child labour by 2025. But the COVID-19 pandemic is threatening a reversal of recent gains, with widespread job losses, deterioration in conditions of work, decline in household incomes and temporary school closures.

The historic first universal ratification of a global labour standard may be an occasion for celebration; it is nonetheless a moment for sober reflection. The two instruments on child labour are among the eight core ILO Conventions regarded as embodying the spirit of the 1998 declaration on fundamental principles and rights at work. Instruments relating to the freedom of association, the right to collective bargaining and the elimination of discrimination in employment and occupation are among the others. These conventions provide the necessary framework to counteract the predominance of informality in the conditions of work and ought to be a priority for governments. Though belated, India has signalled its legal commitment to the elimination of child labour with its 2017 ratification of Convention 182 and the instrument prescribing the minimum age of work for children. As the world prepares to designate 2021 as the year to abolish child labour, governments must seize the moment to instil hope in the future generations.

Meanings of Difficult Words:

- ❖ **ratification** (noun) – an act by which a State (Country) signifies an agreement to be legally bound by the terms of a particular treaty. To ratify (approve) a treaty, the State first signs it and then fulfils its own national legislative requirements. Once the appropriate national organ of the country (e.g.Parliament) follows domestic constitutional procedures and makes a formal decision to be a party to the treaty; approval, sanction, endorsement, finalization/formalization.
- ❖ **universal ratification** (noun) – an approval/ratification of a treaty by every member state of the United Nations.
- ❖ **cause for celebration** (phrase) – a reason to celebrate.
- ❖ **reflection** (noun) – serious thought, consideration, contemplation, deliberation.
- ❖ **outlaw** (verb) – ban, prohibit, forbid.
- ❖ **International Labour Organization (ILO)** (noun) – Since founded in 1919, the International Labor Organization (ILO) is devoted to promoting social justice and internationally recognized human and labour rights, pursuing its founding mission that labour peace is essential to prosperity. It brings together governments, employers and workers of all member States, to set labour standards, develop policies and devise programmes promoting decent work for all women and men.
- ❖ **ratify** (verb) – approve, sanction, endorse.
- ❖ **convention** (noun) – agreement, treaty, pact, accord, protocol.
- ❖ **Convention 182** (noun) – Adopted in the 1999 annual international labour conference by the ILO, it considers the effective elimination of the worst forms of child labour.
- ❖ **exploitation** (noun) – ill treatment, unfair treatment, victimization, cheating.
- ❖ **trafficking** (noun) – the activity of buying and selling goods/animal/people illegally; (illegal/illicit) trading, dealing.
- ❖ **deployment** (noun) – the bringing of resources into effective action.
- ❖ **armed conflict** (noun) – a conflict in which weapons are used.
- ❖ **compromise** (verb) – undermine, weaken, lessen.
- ❖ **well-being** (noun) – healthy state/condition, prosperity.

- ❖ **complement** (verb) – contribute, supplement, augment, enhance (to make something more better).
- ❖ **threshold** (noun) – lower limit, starting point, the level (to react to something).
- ❖ **under the influence** (phrase) – being effected by, being impacted by something; under the control of something.
- ❖ **rescue** (verb) – save, recover.
- ❖ **hazardous** (adjective) – dangerous, perilous, unsafe.
- ❖ **concomitantly** (adverb) – simultaneously, accordingly, at the same time.
- ❖ **landmark** (noun modifier) – major (achievement), watershed (moment), historic (event/victory), milestone (event).
- ❖ **detract from** (verb) – diminish, reduce, take away from, lower.
- ❖ **enormity** (noun) – hugeness, immensity, magnitude.
- ❖ **trap** (verb) – confine, hem in; get stuck, get caught.
- ❖ **if anything** (phrase) – on the contrary.
- ❖ **step up** (phrasal verb) – increase, boost, augment, scale up.
- ❖ **ambitious** (adjective) – aspiring, purposeful, desirous; difficult, demanding, formidable.
- ❖ **abolition** (noun) – termination, elimination, cancellation (of a system).
- ❖ **scourge** (noun) – affliction, misfortune, burden.
- ❖ **pandemic** (noun) – the worldwide spread of a new disease; The illness spreads around the world and typically affects a large number of people across a wide area.
- ❖ **reversal** (noun) – turnaround, change, backtracking.
- ❖ **deterioration** (noun) – decline, collapse/ failure degradation/breakdown.
- ❖ **household** (noun) – family, house.
- ❖ **occasion** (noun) – time, moment.
- ❖ **nonetheless** (adverb) – notwithstanding, nevertheless, in spite of that/however.
- ❖ **sober** (adjective) – sensible, rational, thoughtful.
- ❖ **instrument** (noun) – mechanism, apparatus, system, means (to achieve/ attain something).
- ❖ **eight core ILO Conventions** (plural noun) – The eight ILO fundamental/core Conventions are; the Forced Labour Convention, 1930 (No. 29), the Abolition of Forced Labour Convention, 1957 (No. 105), the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), the Equal Remuneration Convention, 1951 (No. 100), the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Minimum Age Convention, 1973 (No. 138), and the Worst Forms of Child Labour Convention, 1999 (No. 182).
- ❖ **embody** (verb) – include, incorporate, encompass, integrate.
- ❖ **spirit** (noun) – attitude, frame of mind, outlook; true meaning, true intention.
- ❖ **discrimination** (noun) – prejudice, intolerance, inequity, unfairness (against an individual or group of individuals by society and its institutions (basically in the procedures, policies or objectives) as a whole.
- ❖ **framework** (noun) – structure, system.
- ❖ **counteract** (verb) – prevent, thwart, impede, act against something.
- ❖ **predominance** (noun) – dominance, greater amount, greater number, majority.
- ❖ **informality** (noun) – absence of formality, non-formality.
- ❖ **informal sector** (noun) – informal economy, grey economy is the part of an economy that is neither taxed, nor monitored by any form of government.
- ❖ **ought to** (modal verb) – must, should.
- ❖ **belated** (adjective) – late, behind time, not on time/delayed.
- ❖ **prescribe** (verb) – stipulate, lay down, order, specify.
- ❖ **designate** (verb) – identify, recognize, state, pronounce, label.
- ❖ **seize the moment** (phrase) – to make the most of today (present moment); to take full advantage (of opportunities).
- ❖ **instil** (verb) – introduce, inspire, implant, inculcate.